

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
BOSTON, MASSACHUSETTS

Issue Date: 24 May 2017

CASE NO.: 2017-ERA-00001

In the Matter of:

KEVIN WILSON,
Complainant,

v.

ENERGY NUCLEAR OPERATIONS, INC.,
Respondent.

**ORDER DISMISSING COMPLAINT BASED ON LACK OF JURISDICTION,
BECAUSE COMPLAINANT HAS FILED ACTION IN DISTRICT COURT**

This proceeding arises under the employee protection provisions of the Energy Reorganization Act (“ERA”). 42 U.S.C. § 5851 *et seq.*

On February 28, 2017, the Complainant filed a letter giving notice of his intent to bring this ERA claim before the United States District Court for the District of Massachusetts, pursuant to 42 U.S.C. § 5851(b)(4) and 29 C.F.R. § 24.114. That same day, the Complainant was directed via email to provide a copy of the district court complaint once filed.

On May 16, 2017, Complainant submitted a copy of his docketed District Court complaint as required by 29 C.F.R. § 24.114(b). His action was filed in the United States District Court, District of Massachusetts, on May 16, 2017 (Wilson v. Entergy Nuclear Operations, Inc. (No. 1:17-cv-10877)).

As the Complainant has filed a complaint in District Court based on the same facts that constituted his action before the Office of Administrative Law Judges, jurisdiction in the latter has been divested. *See Stone v. Duke Energy Corp*, 432 F.3d 320 (5th Cir. 2005); *see also Kelly v. Sonic Automotive, Inc.*, ARB No. 08-027 (Dec. 17, 2008).

Because I no longer have jurisdiction over the instant matter, the claim is hereby **DISMISSED.**

SO ORDERED.

Boston, Massachusetts

COLLEEN A. GERAGHTY
Administrative Law Judge